IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE EIGHTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.SESHASAYANA REDDY

-

WRIT PETITION NO : 17743 of 2004

Between:

1. Smt. K. Saraswathamma, W/o. Late K. Rama Krishna Reddy
   61 MIG, Tuda, layout, R.C. Road, Tirupathi, Chittoor District.

2. K. Sasyavathi D/o. Late K. Rama Krishna Reddy,
   61 MIG, Tuda, Layout, RC Road, Tirupathi, Chittoor District.

3. K. Nagarani D/o. Late K. Rama Krishna Reddy
   61 MIG, Tuda, layout, R.C. Road, Tirupathi, Chittoor District.

..... PETITIONERS

AND

1. The Inams Dy. Tahsildar, Collector's Office, Chittoor.

2. The Revenue Divisional Officer, Tirupathi, Chittoor District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction more particularly in the nature of Writ of Mandamus declaring the proceedings before the 1st respondent in IDT.No.100/90 as illegal, arbitrary, unconstitutional and contrary to the provisions of A.P. (AA) Inams Abolition and Conversion into Ryotwari 1956 Act and consequently direct the respondent No.1 not to proceed with the above proceedings till the appeals are decided which are pending before the 2nd respondent and to pass.

Counsel for the Petitioner: MR.C.B.RAM MOHAN REDDY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

O R D E R :

1. This Writ Petition has been filed by the petitioners who are three in number with a prayer to issue a Writ of Mandamus declaring the proceedings before the Inams Deputy Tahsildar-1st respondent in IDT.No.100/90 as illegal, arbitrary, unconstitutional and contrary to the provisions of A.P. (AA) Inams Abolition and Conversion into Ryotwari Act, 1956 (for short Act, 1956).

2. The petitioners are the legal heirs of K.Rama Krishna Reddy. He purchased Ac.142.00 cents comprising in S.No.243 to 260 of tiruchanur village, Tirupathi Rural Mandal under a registered sale deed dated 2.2.1970 from inamdars namely

Madabushi Singarachari and others. A suit was filed (O.S.109/79, on the file of Subordinate Judge, Tirupathi) among the family members of K.Rama Krishna Reddy. The suit ended in decree on 11.10.1979 and Ramakrishna Reddy died in 1984. Proceedings were initiated before the 1st respondent under the provisions of the Act, 1956 for grant of ryotwari patta. The 2nd respondent-RDO has set aside the orders of 1st respondent and ordered for denovo enquiry with regard to the claims said to have been made by the petitioners and others for grant of patta under the provisions of the Act, 1956. In the denovo enquiry 1st respondent passed orders granting patta to the petitioners and others who have made an application on 9.4.1994 to various lands except the land in survey Nos.254/2, 254/3, 254/4, 254/5, 255/1 and 256/1 because of pendency certain interim directions passed in W.P.No.11457 of 1998. After disposal of the above said writ petition, the 1st respondent has commenced the enquiry in respect of the lands in survey Nos.254/2, 254/3, 254/4, 254/5, 255/1 and 256/1. The grievance of the petitioners is that if the 1st respondent proceeds with the enquiry pending disposal of the appeal before the 2nd respondent in respect of some other survey numbers, there is likelihood of the authorities coming to contradictory findings. The further grievance of the writ petitioners is that no notice has been served on them in the enquiry by the 1st respondent in respect of survey Nos.254/2, 254/3, 254/4, 254/5, 255/1 and 256/1.

3. The 1st respondent filed counter. It is stated in the counter affidavit that the enquiry in respect of survey Nos.254/2, 254/3, 254/4, 254/5, 255/1 and 256/1 could not be proceeded in earlier proceedings because of interim directions in W.P.No.11457 of

1998 and consequent on disposal of the said writ petition, the proceedings have been taken up for grant of patta in respect of the above said survey numbers. It is further stated in the counter affidavit that notice has been sent to K.harnath Reddy who is no other than the son of 1st petitioner and the said notice has been received by him on 5.7.2004. But, neither he nor any of the petitioners chose to participate in the enquiry. I deem it appropriate to refer the relevant portion at para 3 of the counter affidavit and it is thus:

" 3……It is also true that the then Inam Deputy Tahsildar in his order dated 30-1-1996 did not consider the claim of the petitioner and others for grant of patta to various survey Nos.254/2, 254/3, 254/4, 254/5, 255/1 and 256/1 till the disposal of the writ petition pending before the Hon'ble High Court. The said writ petition was disposed of by the Hon'ble High Court on 25.2.2003 with a direction to the respondents to issue notice to the parties therein and to decide the claim for grant of patta. Pursuant to the said order notices were issued to the parties in the W.P.No.11457 of 1998 and the joint claim is filed by the petitioners and others, notice was sent by registered post with acknowledgement due to Sri.K.Harnath Reddy and others to the addresses given in the claim petition. The said notice was served on Sri.K.harnath Reddy under acknowledgement on 5.7.2004. Inspite of the said notice, neither Sri.Harnath Reddy nor remaining claimants including the petitioners were present and participated in the enquiry. The said Harnath Reddy is no other than the son of the 1st petitioner. When a notice has been issued to the claimants through the male member of the family, under no stretch of imagination, it can be said by mother and sisters of Harnath Reddy that they were not issued any notices by me. The whole effort in filing the Writ Petition is only to stall the proceedings before the 1st respondent. The contentions of the petitioner that they have approached me and I have not allowed them to participate in the enquiry on the ground that the matter is reserved

for orders is absolutely false. The petitioners have never approached me nor the son of the 1st petitioner responded to the notice to participate in the enquiry. It is always open to the petitioners to participate in the enquiry whenever the enquiry is taken up. It is always open to the petitioners to participate in the enquiry and the same will not be objected for the reason that they are also the claimants in the joint claim dt.19.4.1994. The request of the petitioner that the enquiry made by the 1st respondent should be stopped till the appeal filed before the 2nd respondent by third parties are disposed of is totally baseless for the reason that the appeals pertains to grant of patta to other survey numbers and the present enquiry before the 1st respondent is not connected to those survey numbers. The present enquiry is only with regard to the lands in survey Nos.254/2, 254/3, 254/4, 254/5, 255/1 and 256/1 of Tiruchanur village and the said enquiry is no way concerned or connected with the appeals pending with regard to the other survey numbers for which the petitioners and others granted patta. In view of this, the other allegations of the petitioners need not be traversed for the simple reason that the enquiry is pending adjudication before the 1st respondent."

4. Heard learned counsel appearing for the petitioners and the learned Government Pleader appearing for the 1st and 2nd respondents.

5. Learned counsel appearing for the petitioners submits that since the appeal has been pending before the 2nd respondent in respect of certain survey numbers, the 1st respondent should have kept in abeyance the proceedings in respect of other survey numbers since any finding of him would be having a direct bearing in the appeal and vice versa. He further submits that no notice has been served on the

petitioners by the 1st respondent in the proceedings relating to survey Nos.254/2, 254/3, 254/4, 254/5, 255/1 and 256/1 and, therefore, the 1st respondent has to be directed not to proceed with the proceedings till the disposal of the appeal by 2nd respondent.

6. Learned Government Pleader appearing for the 1st and 2nd respondents submits that the 1st respondent could not proceed with the survey Nos.254/2, 254/3, 254/4, 254/5, 255/1 and 256/1 because of interim direction given in the said writ petition and consequent on the disposal of the writ petition the 1st respondent took up the enquiry for those survey numbers also and therefore no writ could be issued to the 1st respondent restraining from exercising his statutory duty.

7. It is no more in dispute that proceedings in respect of survey Nos.254/2, 254/3, 254/4, 254/5, 255/1 and 256/1 could not be taken up by 1st respondent because of certain interim directions in the writ petition. Consequent on the disposal of the writ petition, the 1st respondent took up the proceedings in respect of those survey numbers. The 1st respondent is a statutory authority to consider the claims for grant of pattas under the Act, 1956. The grievance of the writ petitioners is two folded. Firstly, commencement of the proceedings before the 1st respondent pending adjudication of the appeal before the 2nd respondent causes much prejudice to the petitioners. I do not see any substance in his contention since the 1st respondent could not proceed with the enquiry in respect of survey Nos.254/2, 254/3, 254/4,

254/5, 255/1 and 256/1 because of the interim direction given in W.P.No.11457 of 1998. Subsequent to the disposal of the said writ petition, he took up the enquiry in respect of those survey numbers also. Whatever findings given in the earlier proceedings, they relate to the survey numbers other than those stated supra. The second objection of the writ petitioners is that no notice has been served on the him with regard to the commencement of the enquiry in respect of survey Nos.254/2, 254/3, 254/4, 254/5, 255/1 and 256/1. It is stated in the counter affidavit of the respondents that notice has been sent to one K.Harnath Reddy who is no other than the son of the 1st petitioner and brother of the petitioner 2 and 3. When the writ petitioners are party before the 1st respondent, sending notice to the son of 1st petitioner does not constitute a valid notice. Ofcourse, notice sent to the petitioners can be served on any major person in the family. Therefore, I find that sending notice to K.Harnath Reddy does not constitute a valid notice to the petitioners. Since it is specifically stated in the counter that the petitioners are at liberty to participate in the enquiry and the same will not be objected to, the apprehension of the petitioners is not based on sound reasons.

8. Accordingly, the writ petition is disposed with a direction to 1st respondent-Inams Deputy Tahsildar, Collector's office, Chitoor to proceed with the enquiry in respect of survey Nos.254/2, 254/3, 254/4, 254/5, 255/1 and 256/1 after giving due notice to the petitioners. No order as to costs.

Dated: 18th July, 2005. (B.Seshasayana Reddy,J)

Tnb

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Inams Dy. Tahsildar, Collector's Office, Chittoor.
2. The Revenue Divisional Officer, Tirupathi, Chittoor District.
3. Two copies to Government Pleader for Revenue, High Court Buildings, Hyderabad.
4. **2 CD copies**